COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: March 9, 2006

FILE NO.: SH2114924

FROM: JOHNNY G. JURADO, COMMANDER
ERIC B. SMITH, COMMANDER
KENNETH J. BRAZILE, COMMANDER

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**

SERGEANT DALE JOHNSON #[redacted]
DEPUTY KEVIN BERGER #[redacted]
DEPUTY [redacted] #[redacted]
DEPUTY ARMANDO HERNANDEZ #[redacted]
DEPUTY MARK RENNIE #[redacted]
CARSON STATION

On March 31, 2004, the suspect's [redacted] telephoned Carson Station and told desk personnel that her [redacted] (suspect) had just left their residence armed with a shotgun. She said the suspect was driving a 1992 Honda and that he was going to his [redacted] residence, and based on his statements to her, she believed the suspect was going to shoot his [redacted] and then kill himself.

Sergeant Johnson and Deputy Berger drove to the suspect's residence as Deputy Perea and Deputies Rennie and Hernandez responded to the area where the [redacted] was believed to reside. As these units were en route, Deputy Greene saw the suspect vehicle northbound on Bolsa Avenue at 213th Street. The suspect continued north on Bolsa Avenue to westbound Dominguez Street, east of Main Street. Deputies attempted to stop the suspect vehicle, but the driver refused to yield and a pursuit was initiated. At the direction of Sergeant Johnson, Deputy Berger and Deputies Rennie and Hernandez took over control of the low-speed pursuit with Unit Air-7 assisting. Deputies followed the suspect vehicle as it drove westbound on Dominguez Street, to northbound Main Street, then westbound Torrance Boulevard. The suspect then turned north on Normandie Avenue.

Approximately 100 yards north of Torrance Boulevard, the suspect vehicle made a quick U-turn and pulled along the west curb line facing south. Deputy Berger, the lead vehicle, was able to follow the suspect vehicle and stopped his radio car behind it. However, Deputy [redacted] the second vehicle, stopped his radio car in the number two lane facing north, to the east of the suspect vehicle. Deputies Rennie and Hernandez, the number three vehicle in the pursuit, passed by Deputy [redacted] and pulled their radio car behind Deputy Berger. Sergeant Johnson then stopped his radio car alongside the east curb line facing north on Normandie Avenue. He was to the southeast of Deputy [redacted] Deputy [redacted] saw the suspect reach across to the right-front seat, retrieve an assault rifle, and point it out the open driver's window at him. In fear for his life, Deputy [redacted] jumped out of his patrol car and began shooting at the suspect. (Deputy [redacted] patrol car was not in park and the vehicle made a slow U-turn in front of the suspect's car, then hit a telephone pole on the west side of the street.) Deputy Berger and Sergeant Johnson made the same observation re the assault rifle, and fearing for Deputy [redacted] safety, began firing at the suspect. Sergeant Johnson fired two rounds at the suspect. Deputy Berger fired two rounds through his front windshield while he was still

seated in his patrol car. He then got out of his car and moved to take cover behind it, continuing to fire rounds at the suspect as he did so. Deputy Berger reloaded his gun once he got behind his car. Deputy [redacted] continued to fire at the suspect as he ran to Sergeant Johnson's patrol car to take cover. He reloaded his firearm two times in the course of the incident. Deputies Rennie and Hernandez also saw the suspect extend the weapon toward Deputy [redacted] and believed he was shooting at him. Deputy Rennie exited the patrol car and fired a full magazine of rounds at the suspect. Deputy Hernandez, who exited his patrol car armed with a shotgun, ran up to the passenger side of Deputy Berger's patrol car. Deputy Hernandez fired four shotgun rounds through the rear window of the suspect's car.

The suspect then removed the weapon from the window, but continued to move within the vehicle. Believing the suspect was going to re-position himself to shoot at them, deputies again fired at the suspect. They fired additional rounds at the suspect until Sergeant Johnson, in the belief that the suspect had been wounded, ordered everyone to halt their fire. Concurrent to this incident, Sergeant Francisco, Deputy Felis, and Deputy Winfield were positioning themselves on foot in the parking lot of the "Golden Eagle" hamburger stand, which was located at the southeast corner of Torrance Boulevard and Normandie Avenue, approximately 100 yards southeast of where the shooting was taking place. As they entered the parking lot, two males lying on the pavement, pointed up toward the roof of the liquor store directly north of them. There they saw two males on the roof. One of the males was moving up and down behind a facade on the roof. He had an unknown object in his hands. At this time, these deputies were advised by Air-7 that there appeared to be two males on that same roof, and that there appeared to be something in one of the male's hands.

Sergeant Francisco yelled commands at the individual in both English and Spanish to raise his hands, but he refused. Although they were not able to see the shooting, they continued to hear gunfire and heard the ricochet of rounds passing by them. In addition, they heard what they believed was additional gunfire from the east of them. Believing that the individual on the roof was a sniper shooting at them, or at the other deputies on Normandie Avenue, and fearing for their safety, Sergeant Francisco, Deputy Felis, and Deputy Winfield shot at this individual. This man, later identified as Victim #1, was struck twice in the left arm and left shoulder. He was subsequently ordered down from the roof, treated at the scene by paramedics and taken to Harbor/UCLA Medical Center where he was listed in good condition. It was later determined that he had no involvement in the incident and was only repairing the roof of the liquor store. At the scene of the first shooting, deputies were able to see that the suspect, who was still in the front seat of his vehicle, was no longer moving. The deputies approached and secured the weapon from the suspect. They immediately requested paramedics who responded and pronounced the suspect dead at the scene. Suspect sustained eleven gunshot wounds and two shotgun wounds to the upper torso. A toxicology test indicated the presence of methamphetamine and marijuana in Suspect's blood. No deputies were injured.

On January 23, 2006, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP § 3-01/025.00: Use of Force; MMP § 3-01/025.10: Unreasonable Force; and MMP § 3-01/050.10: Performance to Standards. Concerning:

MMP § 3-01/025.00: Use of Force and MMP § 3-01/025.10: Unreasonable Force, the Committee determined that the force used by the deputy was reasonable and necessary and in compliance with Department policy. MMP § 3-01/050.10: Performance to Standards, the Committee determined that the tactics employed by the deputies in this incident were within Department Policy.

Johnny G. Jurado, Commander

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SH2114924
XREF - SH2114929

Hit Shooting Review

Officer Involved Shooting Form
Hit Shooting Evaluation

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Transcribed interviews of witness deputies

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Exhibit A	Homicide Bureau Complete Investigation package, under file # 004-046111694-013,prepared by Deputy Gates and Deputy Weireter. Investigation includes interviews of witnesses, witness Sheriff's personnel, involved deputy personnel, and all evidence related to incident.
Exhibit B	Copy of District Attorney's Letter of Opinion
Exhibit C	Copy of Criminal History for Suspect
Exhibit D	Photographs of crime scenes, weapons, and area where shooting occurred.
Exhibit E	Hand drawn diagrams prepared by each involved deputy

Miscellaneous Documents

Administrative Rights Forms For Shooting/Force

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
10-13-05	Carson	☐	☒

Incident Information

URN: 004-04611-1694-011	Date: 03-31-2004 Time: 0925
City or Station: Los Angeles County Area	Nature of Incident: Deputies receive a call of a male suicidal and en route to girlfriends house to die. Deputies find suspect, go into pursuit and the suspect stops. Suspect points a rifle at deputies and deputies return fire, killing suspect.
Location: Normandie Ave., north of Torrance Blvd.	

Location Type (*circle one or more*): Backyard, Beach, **Business** (circled), Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, Street, Other: ____

Lighting (*circle only one*): Darkness, **Daylight** (circled), Other, **Street Lights** (circled)

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: 20 - 40 feet

Incident Type (*circle one or more*): Accidental, **Armed Person** (circled), Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, **Vehicle Pursuit** (circled), Warrant Service, Warning Shot, Other: ____

Initiated by (*circle only one*): Arrest Warrant, **Call** (circled), Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol** (circled)

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
104	0	☒	☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Green	Jeffrey		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
[redacted]	Norville	James		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
[redacted]	Morris	Patrick		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted]		First Name [redacted]		M.I. [redacted]	
Street Add[redacted]	City [redacted]	Zip Code [redacted]	[redacted]		
Last Name [redacted]		First Name [redacted]		M.I. [redacted]	
Street Addre[redacted]	City [redacted]	Zip Code	Work Ph [redacted]		
Last Name [redacted]		First Name [redacted]		M.I.	
Street A[redacted]	City [redacted]	Zip Code [redacted]	Home Ph		

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Johnson	Dale		**On Duty** (circled), Present during shooting, Witness to shooting, **Involved in shooting** (circled)
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
	Alvarez		

Watch Commander

Employee #	Last Name	First Name	M.I.
	Swanson		

PSTD Use Only
SH # 2114924

Officer Involved Shooting

URN: 004-04611-1694-011

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
03-31-2004	1025	10-16-05	

Employee #	Last Name	First Name	M.I
[redacted]	Landreth	Larry	L
[redacted]	Reyes	Henry	J
[redacted]	Seno	Bennett	W

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Nonnco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#2	FR	NO	9	N	N	NN	NN
E#1	S#1	FH	BR	9	Y	Y	DH	AD
E#2	S#1	FH	BR	9	Y	Y	DH	AD
E#3	S#1	FH	BR	9	Y	Y	DH	HD
E#4	S#1	FH	BR	9	Y	Y	DH	AD
E#4	S#1	FS	IT	12	Y	Y	DH	HD
E#5	S#1	FH	SW	45	y	y	dh	AD

Officer Involved Shooting
Involved Employee Information

URN: 004-04611-1694-011

Involved Employee

E 1

Employee # [redacted]	Last Name Berger	First Name Kevin	M.I.
Sex: M Race: W	Rank DSG	Unit Assignment: Carson	Work Assignment (Unit #, Module, etc.): 167
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors: Baton, No laser sights
Age: [redacted] Height: 5-11	Weight: 2215		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name [redacted]	First Name [redacted]	M.I.

E 2

Employee # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Sex: [redacted] Race: [redacted]	Rank DSG	Unit Assignment: [redacted]	Work Assignment (Unit #, Module, etc.): [redacted]
ShiftTime (*circle only one*): [redacted]	ShiftType (*circle only one*): [redacted]	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors: Baton, No laser sights
Age: [redacted] Height: [redacted]	Weight: [redacted]		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E 3

Employee # [redacted]	Last Name Rennie	First Name Mark	M.I.
Sex: M Race: White	Rank DSG	Unit Assignment: Carson	Work Assignment (Unit #, Module, etc.): 169
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors: Baton, no laser sights
Age: [redacted] Height: 6-05	Weight: 250		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

Officer Involved Shooting
Involved Employee Information

URN: 004-04611-1694-011

Involved Employee

E 4

Employee # [redacted] | Last Name: Hernandez | First Name: Armando | M.I.: R.

Sex: M | Race: Hispanic | Rank: DSG | Unit Assignment: Carson | Work Assignment (Unit #, Module, etc.): 169

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☒

Hrs of sleep prior to shooting: 8 | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors: Baton, no laser sights

Age: [redacted] | Height: 5-10 | Weight: 190

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

E 5

Employee # [redacted] | Last Name: Johnson | First Name: Dale | M.I.:

Sex: M | Race: White | Rank: Sergeant | Unit Assignment: Carson | Work Assignment (Unit #, Module, etc.): 160S

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: 6 | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors: Baton, no laser sights

Age: [redacted] | Height: 5-11 | Weight: 210

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I. [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

E___

Employee # | Last Name | First Name | M.I.

Sex: | Race: | Rank | Unit Assignment: | Work Assignment (Unit #, Module, etc.):

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: | Height: | Weight:

Range Qualification Date: | PPC Qualification Date: | Laser Training Date:

Certified with Weapon Used? ☐ | Patrol Certification? ☐ | Certification Unit: | Prior Shootings? ☐ | Number of Prior Shootings:

Field Training Officer Emp # | Last Name | First Name | M.I.

Field Training Officer Emp # | Last Name | First Name | M.I.

Officer Involved Shooting Suspect Information

URN: 004-04611-1694-011

Suspect Information

S 1

Last Name: Mosqueda	First Name: Salvador	M.I.: A
AKA Last Name:	First Name:	M.I.:

Sex: M Race: Hispanic	Street Addr[redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone:	H[redacted]	Social Secu[redacted]	Driver's Licens[redacted]
Age: 32 D.O.B. 04-24-1972	Height: 5-08 Weight: 285	FBI # [redacted]	CII # [redacted]
Booking # n/a	Primary Charge:	Secondary Charge:	
Coroner Case? [X]	Coroner Case # 2004-02545	Intoxication/Drug Usage? [X]	Substance Used: Methamphetamine
Armed? [X]	Apprehended? [X]	Mental Illness? [ ]	Criminal History? [redacted]
Vehicle Make: Honda		Model: Accord	Year: 1992

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make		Model:	Year:

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make		Model:	Year:

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make		Model:	Year:

See Other Side

LLL



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE • Director

April 11, 2005

Captain Raymond Peavy
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 04-0282
L.A.S.D. File No. 004-04611-1694-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 31, 2004, fatal shooting of Salvador Mosqueda by Los Angeles County Sheriff's Deputies Kevin Berger, [redacted] Armando Hernandez, Mark Rennie and Sergeant Dale Johnson. We have concluded that these deputies acted lawfully in self-defense and in the defense of others. Additionally, we have completed our review of the subsequent non-fatal shooting of [redacted] by Deputies Eric Felis, Gary Winfield and Sergeant Holly Francisco. There is insufficient evidence that these deputies committed criminal misconduct.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department submitted to this office by Detectives Jim Gates and Stephen Weireter between August 11, 2004 and December 7, 2004. Additionally, the District Attorney Command Center was notified of the shooting at approximately 10:15 a.m. on March 31, 2004. The District Attorney Response Team, comprised of Deputy District Attorney Edward Miller and District Attorney Senior Investigator [redacted] responded to the location and was given a briefing of the circumstances surrounding the

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
WEBSITE: http://da.co.la.ca.us

shooting and a "walk-through" of the scene. Compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

Fatal Shooting of Salvador Mosqueda

On March 31, 2004, an individual identifying herself as [redacted] the [redacted] of Salvador Mosqueda, made a frantic 9-1-1 call to the Carson Sheriff's Station. She stated that Mosqueda was on the way to his [redacted] house with a "shotgun" and that he had said that he would die there. [redacted] explained that Mosqueda was upset because his [redacted] would not let him see his [redacted] She added that her [redacted] was on drugs. [redacted] could not give the exact address of Mosqueda's [redacted] but stated that she lived on Moneta Avenue between 213th Street and Carson Street, in the City of Carson. She also gave a description of Mosqueda's Honda Civic.

As Deputy Jeff Greene was driving east on 213th Street, he saw Mosqueda driving westbound toward him. As Greene drove past him, Mosqueda looked in his direction, nodded and smiled.

Deputy Greene drove on for another one hundred yards so as not to alert Mosqueda, then made a U-turn and followed him. Mosqueda subsequently turned right onto Bolsa Avenue. Several patrol cars joined in following him. Deputy Kevin Berger got directly behind Mosqueda and turned on his red lights and siren. Mosqueda, however, did not stop. As Mosqueda drove past Deputy [redacted] at the intersection of Dominguez Street, [redacted] stated that Mosqueda looked angry and said something to the effect of, "You would for your kids too." Mosqueda drove by Sergeant Dale Johnson as he was joining the pursuit and stated, "Don't do it fucker." As he drove on, Mosqueda ran red lights and stop signs.

Mosqueda subsequently drove west on Torrance Boulevard (hereafter, "Torrance"), then turned right, northbound onto Normandie Avenue (hereafter, "Normandie"). Deputy Berger remained behind him, followed in order by Deputies Armando Hernandez and Mark Rennie in one patrol car, and Deputy [redacted] and Sergeant Dale Johnson in separate cars.

[redacted] was stopped at the intersection facing northbound on Normandie. She said that Mosqueda was laughing as he made his right turn.

Mosqueda traveled approximately 150 yards down Normandie, then abruptly made a U-turn and stopped near the west curb facing southbound. Deputy Berger also made a U-turn and stopped behind Mosqueda's car.

As Deputy [redacted] drove north on Normandie toward Mosqueda, he saw him reach towards

his passenger seat. [redacted] told investigators that Mosqueda then turned towards him and pointed what he believed was a shotgun directly at him through his (Mosqueda's) window. In fear for his life, [redacted] jumped out of his patrol car while it was still moving, and began shooting at Mosqueda. [redacted] patrol car made a U-turn in front of Mosqueda's car, then hit a telephone pole on the west side of the street.

Deputy Berger stated that after stopping behind Mosqueda's car, he saw the barrel of an assault rifle protruding from Mosqueda's driver's door window pointed eastbound. Berger saw a patrol car (possibly Deputy [redacted] east of Mosqueda's car and believed that Mosqueda was going to shoot at the assisting deputies. In response, Berger fired two rounds through his front windshield while he was still seated in his patrol car. Berger got out of his car and moved to take cover behind it, continuing to fire rounds at Mosqueda as he did so. Berger reloaded his gun once he got behind his car.

Sergeant Johnson stopped southeast of Mosqueda's car after Mosqueda completed his U-turn. Johnson saw Mosqueda lower his gun in his and Deputy [redacted] direction. Johnson heard gunshots, but did not know if Mosqueda was the one firing. Sergeant Johnson fired two rounds at Mosqueda.

As Deputies Rennie and Hernandez drove by Mosqueda, following his U-turn, they saw him motioning with his hand downward. Rennie thought he heard Mosqueda say, "Right here." Rennie made a U-turn and parked behind Deputy Berger. Rennie saw the muzzle of Mosqueda's gun protruding out the driver's door window pointing at Deputy [redacted] Deputy Rennie believed he saw puffs of smoke and muzzle flash coming from Mosqueda's gun and heard shots fired. Rennie told Hernandez that Mosqueda was firing his weapon. Rennie exited the patrol car and fired a full magazine of rounds at Mosqueda.

Deputy Hernandez also believed that Mosqueda was firing his weapon. After exiting the patrol car armed with a shotgun, he ran up to the passenger side of Deputy Berger's patrol car. Hernandez fired two or three rounds through the rear window of Mosqueda's car.

Deputy [redacted] reloaded his firearm two times in the course of the incident. He continued to fire at Mosqueda as he ran to Sergeant Johnson's patrol car to take cover. [redacted] said that Mosqueda was still pointing his gun at him and moving back and forth. Sergeant Johnson and Deputies Berger, Rennie and Hernandez gave similar accounts of Mosqueda's actions following their initial volleys and believed that Mosqueda continued to pose a deadly threat. They fired additional rounds at him until Sergeant Johnson, in the belief that Mosqueda had been wounded, ordered everyone to halt their fire.

Deputies subsequently removed Mosqueda from the vehicle. Paramedics were called and pronounced him dead at the scene. Mosqueda sustained eleven gunshot wounds and two shotgun wounds. A toxicology test indicated the presence of methamphetamine and marijuana in his blood.

[redacted] and [redacted] were roofers who were working on the roof of Melody Liquor (hereafter, "the liquor store"). [redacted] saw Mosqueda make a U-turn and come to a stop across the street, north of the front of the liquor store. He then saw Mosqueda raise his gun. In the belief that Mosqueda was going to start shooting, [redacted] laid down flat on the roof. He then heard rounds being fired, but did not see what occurred on Normandie.

Mosqueda was armed with an assault rifle. Investigators found the safety lever in the fire position. It was loaded with twenty-five live rounds, including one in the chamber. No evidence was recovered indicating that Mosqueda fired the weapon.

Ninety-four expended cartridge casings were recovered from the scene of the shooting. Sergeant Johnson fired a total of four rounds during the incident. Deputy Rennie believed he fired a total of thirty-one rounds at Mosqueda. Deputy Hernandez fired four rounds from his shotgun and stated he fired ten to twelve rounds from his handgun. Deputy [redacted] said he fired between twenty-five and thirty rounds. It appears that Deputy Berger fired approximately 20 rounds.



Mosqueda had a [redacted]

Non-fatal Shooting of [redacted]

During the shooting incident involving Mosqueda, deputies who arrived on the scene to assist mistakenly believed that a sniper was firing shots at deputies from the roof of the liquor store. As a result, [redacted] sustained two gunshots wounds to his left shoulder.

At the southeast corner of the Torrance-Normandie intersection is the Golden Eagle Restaurant (hereafter, "the restaurant"). Mosqueda drove past the restaurant when he turned north onto Normandie from Torrance. The liquor store is located north of the restaurant. There is a parking lot located between the restaurant and the liquor store which is shared by both locations. The parking lot also can be entered from Torrance on the east side of the restaurant. A sign for the liquor store extends along the edge of the roof facing Normandie. The sign extends approximately three feet upward from the roof and an individual can easily hide behind it. If the sign was constructed with the appropriate materials, it could function as a barricade for a sniper.

The area, in the unincorporated county area of Torrance, is claimed by the Tortilla-Flats street gang. This gang is also called by the nickname "Snipers" and is known for ambushing its victims.

Sergeant Holly Francisco and Deputy Robert Doty, assigned to a patrol car driven by Doty, along with Deputies Eric Felis and Gary Winfield, each assigned to separate patrol

cars, were involved in the pursuit of Mosqueda, but disengaged at the direction of Sergeant Johnson. After terminating their pursuit, Sergeant Francisco heard Sheriff's helicopter observer Deputy Patrick Morris (hereafter, "the helicopter) advise that there was an officer involved shooting. Deputy Doty parked their car on the east side of the restaurant. Deputy Felis followed Doty into the restaurant parking lot. Deputy Winfield stated that he entered the parking lot approximately thirty seconds after Deputy Felis

As Sergeant Francisco exited her patrol car, she heard gunshots. She and Deputy Doty immediately took cover. Francisco told investigators that she saw two men lying on the ground in the parking lot on the north side of the restaurant and that one of these men pointed up toward the roof of the liquor store. She looked up and saw a man's head bobbing up and down on the southwest section of the liquor store roof. The man was [redacted] dressed in a red shirt and green pants. Francisco yelled at [redacted] in English and Spanish to put his hands up. Francisco stated that though she made eye contact with [redacted] several times, he did not comply with her commands. Francisco stated that [redacted] appeared to be looking toward the deputies involved in the shooting with Mosqueda on Normandie Avenue.

Francisco said that the helicopter advised by radio that there were "possible snipers on the roof of the liquor store."

Francisco also saw a second man on the liquor store roof dressed in blue. This was [redacted] was standing east of [redacted] lay down on the roof and placed his hands out. Francisco told investigators that she then heard Deputy Berger advise by radio that there was a "possible sniper on the roof of the liquor store." According to Francisco, [redacted] continued to bob his head up and down. At the same time, she heard the sound of gunshots "pinging" to the west, off the restaurant's north-facing wall. [redacted] appeared to have something in his hands and at some point, she heard the helicopter advise that one of the men on the roof had something in his hands.

Sergeant Francisco believed that [redacted] was a sniper firing at her and her partners. She fired three rounds at him and gave more verbal commands. [redacted] continued to stick his head up and Francisco fired two more rounds at him.

Sergeant Francisco stated that [redacted] was facing her when she fired her initial rounds. When Francisco fired her second set of rounds, [redacted] was facing towards the deputies on Normandie. She heard rounds being fired at this time. It appeared to Francisco that [redacted] was kneeling down, taking a position to shoot at the deputies on Normandie.

Sergeant Francisco estimated that she and her partners began to fire rounds just seconds after or simultaneously with the conclusion of the shooting on Normandie Avenue. Francisco stated that after she fired her rounds, Deputy Greene advised by radio that the

men on the roof were only workers.

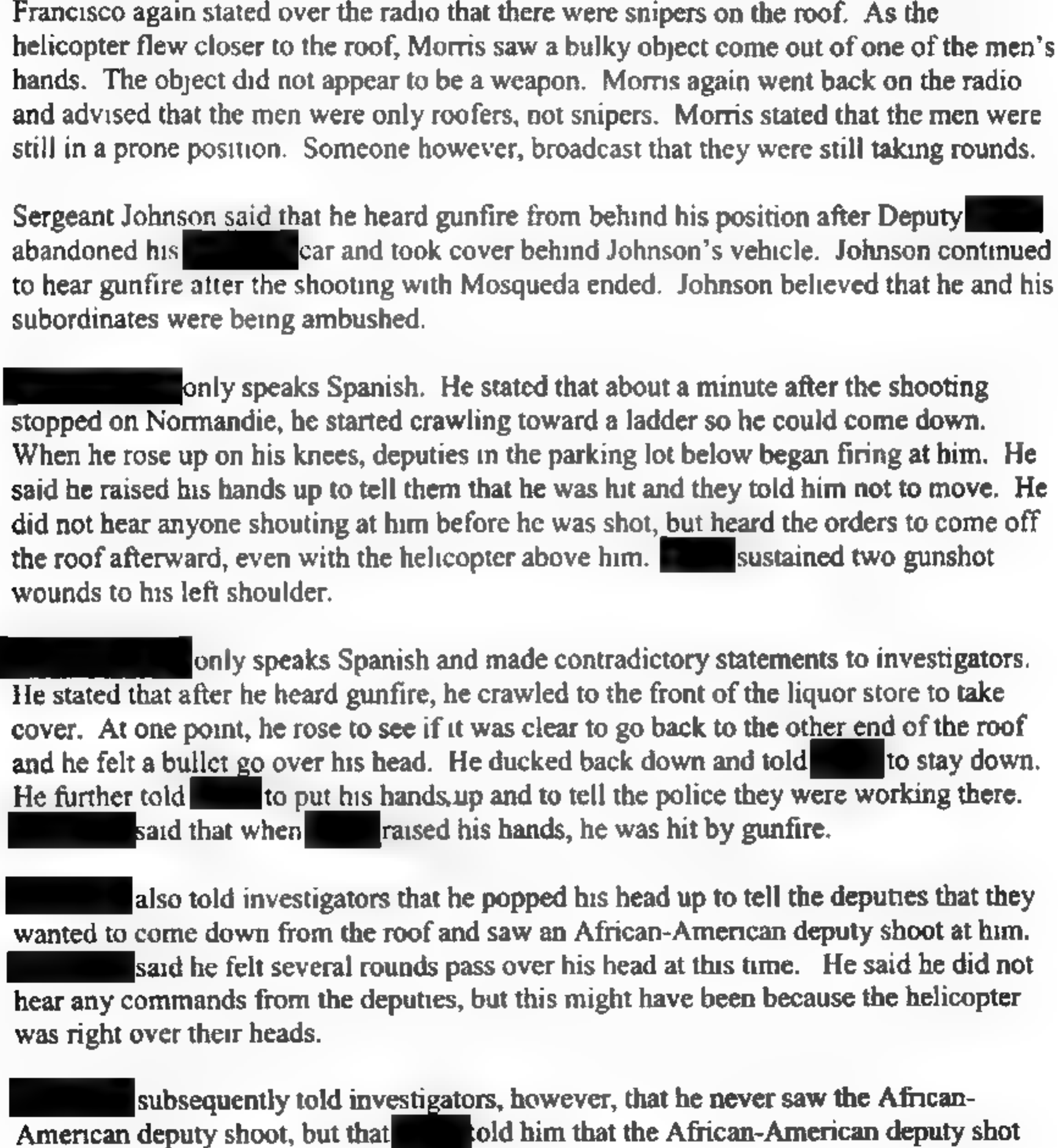
Deputy Felis gave an account of the incident that was similar to Sergeant Francisco's. According to Felis, Francisco advised him that two persons lying down in the parking lot had pointed up at the liquor store roof. When Felis first spotted the individuals on the roof, [redacted] was lying face down and [redacted] was moving his head up and down. As Felis described it, [redacted] repeatedly looked towards the street and then directly at him and Francisco. At one point, he heard Deputy Berger on the radio state that there was a possible sniper in the area Felis said he also heard the helicopter broadcast that there was a sniper. Felis told investigators that [redacted] subsequently popped up, exposing his torso. At this point, the helicopter advised that [redacted] was holding something in his hand. Felis fired one round at him. Felis did not see [redacted] holding anything. Felis stated that based on the totality of the entire situation, he believed the two men on the roof were a threat to him and his partners. He said he fired the round because he was "scared to death" and believed [redacted] and [redacted] were snipers.

Deputy Winfield had a different perception of events. As stated above, he pulled into the restaurant parking lot about thirty seconds behind Deputy Felis. As he got out of his patrol car, he heard shooting coming from the area where Mosqueda had been stopped and believed that either Sergeant Francisco or Felis had fired their weapons. Winfield heard on the radio that there were two possible snipers on the liquor store roof and then heard the helicopter broadcast that one of the males on the roof had an object in his hands. Winfield said that when he looked up to the liquor store roof, [redacted] was "completely still" and [redacted] was walking back and forth. According to Winfield, it was [redacted] who did not comply with Francisco's commands to put his hands up and [redacted] was lying motionless on the roof. Winfield told investigators that the helicopter advised that [redacted] had an object in his hands. Deputy Winfield determined that [redacted] was an immediate threat. [redacted] then walked to the south portion of the liquor store roof and began to raise his arms. Believing that [redacted] was about to shoot at him, Winfield fired one round from his shotgun. Winfield believed that the deputies with him fired before he did.

Deputy Greene had arrived at the intersection of Normandie and Torrance when he heard the helicopter announce the shooting involving Mosqueda. Greene subsequently entered the restaurant and was told there were workers on the liquor store roof. He broadcast that [redacted] and [redacted] were workers, and the two men were subsequently assisted down from the roof. Greene stated that he made his broadcast after all the shooting had ended.

After he exited their patrol car, Deputy Doty followed Sergeant Francisco. Doty said there were a lot of shots being fired and it sounded like a major gun battle as they made their approach. When Doty went around the corner of the restaurant, he also heard the sound of rounds hitting metal about fifteen feet away. After Francisco fired her initial rounds, Doty saw the man on the ground pointing up toward the liquor store roof and he believed they were being shot at. Doty, however, was unable to see what Francisco was shooting at. Doty said Francisco was yelling, "Manos arriba, manos arriba!" the whole

time.



Deputy Patrick Morris, the observer in the Sheriff's helicopter, transmitted his observations of the shooting involving Mosqueda by radio. He heard someone state on the radio that there was a sniper on a roof. Morris began to check the roof tops and approximately thirty seconds later, he saw two men proned out on the liquor store roof. He also saw roofing material on the roof and a ladder. Morris immediately advised ground units that the men on the roof were "roofers, not snipers." Morris then heard Sergeant Francisco come onto the radio and state there was a sniper on the roof. Morris went back onto the radio and advised her that the men were only roofers, not snipers. Francisco again stated over the radio that there were snipers on the roof. As the helicopter flew closer to the roof, Morris saw a bulky object come out of one of the men's hands. The object did not appear to be a weapon. Morris again went back on the radio and advised that the men were only roofers, not snipers. Morris stated that the men were still in a prone position. Someone however, broadcast that they were still taking rounds.

Sergeant Johnson said that he heard gunfire from behind his position after Deputy [redacted] abandoned his [redacted] car and took cover behind Johnson's vehicle. Johnson continued to hear gunfire after the shooting with Mosqueda ended. Johnson believed that he and his subordinates were being ambushed.

[redacted] only speaks Spanish. He stated that about a minute after the shooting stopped on Normandie, he started crawling toward a ladder so he could come down. When he rose up on his knees, deputies in the parking lot below began firing at him. He said he raised his hands up to tell them that he was hit and they told him not to move. He did not hear anyone shouting at him before he was shot, but heard the orders to come off the roof afterward, even with the helicopter above him. [redacted] sustained two gunshot wounds to his left shoulder.

[redacted] only speaks Spanish and made contradictory statements to investigators. He stated that after he heard gunfire, he crawled to the front of the liquor store to take cover. At one point, he rose to see if it was clear to go back to the other end of the roof and he felt a bullet go over his head. He ducked back down and told [redacted] to stay down. He further told [redacted] to put his hands up and to tell the police they were working there. [redacted] said that when [redacted] raised his hands, he was hit by gunfire.

[redacted] also told investigators that he popped his head up to tell the deputies that they wanted to come down from the roof and saw an African-American deputy shoot at him. [redacted] said he felt several rounds pass over his head at this time. He said he did not hear any commands from the deputies, but this might have been because the helicopter was right over their heads.

[redacted] subsequently told investigators, however, that he never saw the African-American deputy shoot, but that [redacted] told him that the African-American deputy shot

him. [redacted] admitted that he never saw anyone shooting at him.

An expended bullet was found on the sidewalk of Normandie in front of the restaurant. Another expended bullet was found in the parking lot about eleven feet from the restaurant's north wall. These may be bullets that Sergeant Francisco and Deputy Doty believed they heard hitting the area of the restaurant, and could have been fired by deputies involved in the shooting with Mosqueda. Based on the state of the evidence, however, there is no way to determine this with certainty. Rather, they could have been fired by the deputies who fired toward the liquor store roof and ended up in their resting positions as the result of ricocheting off the liquor store.

The Radio Transmissions

Unfortunately, the usefulness of the audiotape of the radio transmissions during the incident is somewhat limited by the fact that no gunfire can be heard. Thus, it is not possible to correlate the timing of the information broadcast over the radio with the actions of the deputies in firing rounds at the individuals on the roof of the liquor store. Moreover, it cannot be determined when the shooting involving Mosqueda ended and the shooting involving [redacted] began.

About twenty-three seconds after Deputy Morris advised of the officer involved shooting with Mosqueda, Sergeant Francisco states, "Code 7, code 6" to signal that she has arrived at the scene.

Shortly after, an unknown deputy who is apparently involved in the shooting with Mosqueda states, "(unintelligible) car. He has a gun." Immediately after this, Francisco states, "No, no, he's on the rooftop at the liquor store. We're just north. He's on the liquor store roof. Copy." In response to the dispatcher's request for a description, Francisco replies, "(unintelligible) green pants. And additional shots fired. It looks like he was trying to snipe at the deputies. Do not come southbound on Normandie, nobody."

A few seconds later, Deputy Morris broadcasts, "The people on the roof at the liquor store, they're just taking cover. They're roofers on the roof. They are just taking cover behind the behind the liquor store sign there." Shortly after, an unknown male deputy advises "Got more shots fired," but it is unknown whether this deputy is referring to the situation involving Mosqueda or the subjects on the roof. Francisco then is heard stating, "Tell Johnson, back up, back up! Johnson, back up, he's on the roof! Back up."

Deputy Morris responds almost immediately, "The guys on the roof are only roofers. They look like they're just taking cover. Copy?" Seconds later he elaborates, "The guys on the roof are only roofers. They got ladders to the east. They were working on the roof. They're just taking cover. They're down hiding behind the, like the liquor store

sign there on the west side."

The dispatcher responds, "Copy. Roofers on top of the roof of the liquor store. Any unit to confirm an actual suspect description?"

Sergeant Francisco responds, "He's going to be a male Hispanic. He has green pants and a red shirt. He keeps popping up. No units come south towards the liquor store." This occurs about two minutes after Francisco indicated she had arrived at the location.

The dispatcher then asks for confirmation of Francisco's identity and whether she is still advising that a suspect is on the roof.

Deputy Morris interjects, again stating, "The guys on roof are workers. They got a ladder on the roof. They were working on the roof. Copy?"

In response, a voice believed to be Sergeant Johnson's broadcasts, "There are still rounds going off, buddy."

About thirty-six seconds later, Deputy Murphy broadcasts, "Hey guys, I don't see any four-seventeens. They look like they're standing out with their hands out to the sides. The guy in the dark clothing has his hands out to the side. Here, stand by." About forty seconds later, Morris broadcasts that the "guy in dark clothing" has something in his hands and they are going to go lower to see what it is.

The dispatcher subsequently asks Deputy Berger to confirm that there was only one suspect that he saw in the vehicle. Berger responds that there was only one suspect in the car, "But we heard rounds after we stopped firing coming from the south over near the restaurant. He may have set up a some sort of sniper situation." This is about four minutes and twenty seconds after Sergeant Francisco indicated her arrival at the scene.

About fifteen seconds later, Deputy Morris advises, "the guys are definitely proned down on the roof there."

About one minute and fifteen seconds later, Deputy Greene advises Deputy Morris that he is in the restaurant and people have told him that the people on the roof are employees working. This occurs about six minutes after Sergeant Francisco advised of her arrival at the scene.

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears that the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of

great bodily injury or death. People v. Williams, (1977) 75 Cal.App. 3d 731.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. California Jury Instructions—Criminal 5.30, 5.32.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo, (1948) 85 Cal. App. 2d 577.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight . . . The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. Graham v. Conner, (1989) 490 U.S. 386, 396-397

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins, (1961) 189 Cal. App. 2d 575.

In this case, the deputies were justified in using deadly force against Salvador Mosqueda. Mosqueda was armed with an assault rifle loaded with two dozen rounds of ammunition. When he pointed his rifle outside his car window in the direction of Deputy [redacted] and Sergeant Johnson, he clearly posed an imminent mortal danger to all of the deputies who had pursued him.

As for the second shooting incident, [redacted] and [redacted] obviously posed no actual danger to the deputies. The question that must be addressed is whether the deputies actually and reasonably believed they were in imminent danger of great bodily injury or death.

It is clear, contrary to Sergeant Francisco's statement, that the first individual to broadcast anything about a "sniper" was herself. The only other person to use the word "sniper" was Deputy Berger, and this was not until approximately four minutes and twenty seconds after Francisco indicated her arrival at the scene. Nevertheless, the sound of Francisco's voice as she broadcast her observations leaves no doubt that she actually believed she was confronted by a sniper and that she feared for her life as well as the lives of her fellow deputies. Nor does it appear to be reasonable to doubt that Deputies Felis and Winfield shared Francisco's fears based on their own perceptions of the

incident.

It is also clear that the helicopter never broadcast that there was a possible sniper on the roof of the liquor store as Sergeant Francisco and Deputy Felis believed. These kinds of discrepancies, however, as well as other apparent discrepancies between the accounts given by the deputies and the tape of the radio transmissions, are not unusual, given the rapidly evolving and confusing nature of the situation the deputies found themselves in. It is apparent that the deputies who fired rounds at [redacted] did not hear the broadcasts by the helicopter advising that the people on the roof were workers. Yet, it is hardly surprising that deputies who believed they were confronting a sniper may have had their attention distracted from the radio broadcasts. One communication from the helicopter, unfortunately, was key to elevating the level of danger felt by Francisco, Felis and Deputy Winfield: that one of the persons on the roof had something in his hands. This statement fueled the perception that the persons on the roof posed an imminent mortal danger.

Thus, there is abundant evidence that Sergeant Francisco and Deputies Felis and Winfield actually believed they were in mortal danger. Did they reasonably believe they were in imminent danger of great bodily injury or death? It is indisputable that Mosqueda's pointing of his assault rifle at deputies and their response with deadly force created a situation of great danger for all persons in the area. This was joined by a series of coincidences: (1) Mosqueda led deputies into an area controlled by a gang nicknamed "Snipers," that has a reputation for employing ambushes; (2) Mosqueda just happened to stop across the street from a building where workers on the roof engaged in movements consistent with the actions of snipers; (3) A man lying on the ground pointed up at the liquor store roof, which Sergeant Francisco understood as an indication that the persons on the roof posed a threat; (4) The movements of the workers on the roof took place while the sounds of gunfire were emanating from nearby, giving the appearance that the workers were in fact the ones firing rounds; (5) The workers took cover behind a sign consistent with the appearance of snipers hiding behind a barricade; (6) Sergeant Francisco and Deputy Doty heard what they believed was the sound of bullets hitting the restaurant; (7) The workers on the roof did not respond to commands by Sergeant Francisco. They only spoke Spanish and may not have been able to hear because of noise from the helicopter. Given these circumstances, any conclusion that the deputies who fired at [redacted] acted unreasonably would require an unseemly and impermissible use of the "20/20 vision of hindsight" to second-guess deputies who were "forced to make split-second judgments." We find insufficient evidence to question the reasonableness of the deputies' actions.

We conclude that Deputies Kevin Berger, [redacted] Armando Hernandez, Mark Rennie and Sergeant Dale Johnson acted reasonably and lawfully in self-defense and in defense of others when they used deadly force against Salvador Mosqueda. We further conclude that there is insufficient evidence that Deputies Eric Felis, Gary Winfield and Sergeant Holly Francisco committed a crime when they used deadly force against

[redacted] We are therefore closing our file and will take no further action in this matter.

Very truly yours,

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